

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
Creation of a Low Power Radio Service)	MM Docket No. 99-25
)	
Amendment of Service and Eligibility)	MB Docket No. 07-172
Rules for FM Broadcast Translator)	RM-11338
Stations)	

To: The Commission

**SUPPLIMENTAL REPLY COMMENTS OF KYLE MAGRILL IN
THE THIRD FURTHER NOTICE OF PROPOSED RULE MAKING**

Kyle Magrill, pursuant to the FCC Rule Section 1.401 hereby submits additional Reply Comments in the above captioned Third Further Notice of Proposed Rule Making ("FNPRM") wherein the FCC seeks to modify its Rules to accomplish and balance the directives of the recently enacted Local Community Radio Act of 2010 ("LCRA") with respect to the future processing of LPFM and FM translator applications.

Background:

In MB Docket No. 07-172, the Commission asks what steps should be taken to limit or prevent trafficking of translator construction permits. Quite a few comments have been directed at the idea that radio should, primarily be local in nature, thus a simple cap on the number of applications filed or granted would be a way to limit speculative applications. The assumption is that by limiting the number of applications, most organizations will only apply for the places that they really want to serve. While this is probably true, there are undesirable side effects to such a simple solution.

Discussion:

Most of the so-called trafficking allegations are centered around a handful of non-commercial applicants. The Commission had thought that the preparation and filing fees and costs associated with filing for licenses would, generally, limit speculation. The Commission's belief was true insofar as commercial applications were concerned, but failed to anticipate the enormous number of applications that would be filed by a few non-commercial applicants that were not limited by filing fees.

While localism is an important part of broadcasting, the concept of forging national or regional networks is also a valuable public service. This service would be either impossible or severely limited by a simple cap. Whatever solution is employed needs to allow for balance between the desire to construct and operate national/regional networks and the need to preserve spectrum for localized services and prevent speculative applications.

As noted in several comments, a simple cap tends to force applicants to concentrate on larger, more lucrative or influential, target markets at the expense of rural locations, yet it is often the rural locations that need communications infrastructure the most.

A proposed solution

One possible solution would be to employ a tiered, market-based cap. The presumption is that organizations filing fewer applications are less likely to engage in speculative filings. As the number of total applications increases, the number of applications per market must decrease. For example, such a system might have the following restrictions:

Total number of applications filed	Number allowed per market
1 to 25	No limit
26 to 100	4
101 to 500	3
501 to 1000	2
Over 1000	1

The actual number of applications filed vs. the number per market is, of course, adjustable based upon the Commission's determination of what constitutes reasonable numbers. Capping tends to limit speculation and trafficking because it forces applicants to focus on those locations that they truly desire to serve. This solution strikes a balance between permitting networks to be created and preventing speculative filings that lead to trafficking.

Critics of the above proposal will, correctly, say that it still tends to concentrate applications in urban areas at the expense of rural service. This can be resolved by creating an exception for translators proposed in rural locations, so that those translators do not count towards the applicant's total. A pledge not to move rural translators to significantly more urban locations for a period of two years should be required to insure that the exempted translators are used to service those rural areas.

A rural translator could be defined as either one outside of the top 200 markets, or as one within the top 200 that provides service to fewer than 10,000 people.

Respectfully submitted,

Kyle Magrill